

REMARKS

In the Office Action dated January 6, 2010, claims 11-13, 15, 19 and 23 were pending and under examination.

Claims 11-13, 15, 19 and 23 were rejected as allegedly obvious under 35 U.S.C. §103(a) based on WO99/24078 (newly cited) in view of U.S. Patent 5,316,920 (of record), allegedly as evidenced by U.S. Patent 5,766,570 (of record).

The Examiner alleges that WO 99/24078 teaches the treatment of graft versus host disease (GVHD) by administering antibodies (including monoclonal antibodies) that deplete (including kill) dendritic cells in a subject, and that the antibodies may be conjugated to an immunotoxin. According to the Examiner, the only distinction between WO 99/24078 and the present application is that antibodies specifically reactive with CD83 are not taught by WO 99/24078. The Examiner alleges that this deficiency is remedied by the teachings of the '920 patent, which discloses antibodies to CD83.

The Examiner alleges (see the paragraph spanning pages 3-4 of the Action) that it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to perform the therapeutic method of treating GVHD by administering an antibody for an antigen presenting dendritic cell as taught by WO 99/24078, where the antibody is a CD83 antibody as taught by the '920 patent. In other words, the Examiner is alleging that it would be obvious to one skilled in the art to substitute the dendritic cell antibodies taught in WO 99/24078 with the CD83 antibodies of the '920 patent.

Applicants respectfully submit that it could not have been expected from the prior art that CD83 antibodies and antigen-binding fragments thereof would necessarily exhibit the beneficial effect of treating GVHD taught in WO 99/24078. Applicants submit that a person of

ordinary skill in the art would not have expected antibodies that target CD83 to be useful in the methods now claimed, including the method of treating GVHD. This is due, in part, to the unpredictable nature of antibody therapy. Simply because antibodies can be raised to a particular molecule does not mean that they will have an immunobeneficial effect. In this regard, Applicants respectfully direct the Examiner's attention to Applicants' previous submissions, especially pages 5-7 of the Response filed on September 18, 2009.

Applicants also refer to additional prior art which shows the same fact, including:

Published PCT application WO 99/24078, in which Example 2 describes a study examining the activity of different dendritic cell antibodies, the study noting that "33D1 binding did not eliminate these cells [dendritic cells from PBS-treated mice]";

Published PCT application WO 01/02005, in which anti-CD51 antibodies were studied, the specification noting that "when dendritic cells were treated with anti-CD51 antibodies prior to exposure to LPS ... the dendritic cells failed to mature and the expression of surface molecules remained at the level of immature dendritic cells"; and

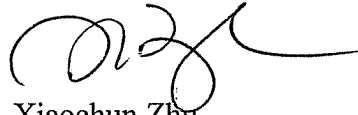
U.S. Patent 7,052,694, which examined "human IgM antibody (sHIgM12) that binds mouse dendritic cells and can induce dramatic immunopotential ... The antibody induces intracellular signalling changes in dendritic cells grown and differentiated in vitro, and protects dendritic cells from death ...".

These references are being provided to the Office in an Information Disclosure Statement enclosed herewith. Therefore, Applicants respectfully submit that those skilled in the art would not be motivated to substitute the antibodies described in WO 99/24078 with a CD83 antibody, as there could be no expectation of success, without first establishing the effects of the CD83 antibody on dendritic cells.

As such, Applicants respectfully submit that the claimed invention is not obvious over WO 99/24078 in view of the '920 patent. Withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'XZ' followed by a stylized flourish.

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